

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

In the Matter of Application 22863
of Caleb and Fern Davidian to Appro-
priate from an Unnamed Stream in
El Dorado County.

Decision 1348

DECISION APPROVING APPLICATION

Caleb and Fern Davidian having filed Application 22863 for a permit to appropriate unappropriated water; a protest having been received; a public hearing having been held before the State Water Resources Control Board on June 12, 1969; applicants having appeared and presented evidence; the evidence received at the hearing having been duly considered, the Board finds as follows:

1. Application 22863 is for a permit to appropriate 45 acre-feet per annum by storage from November 1 of each year to May 1 of the succeeding year for irrigation, stockwatering, recreational and fire protection purposes from an unnamed stream in El Dorado County. The point of diversion is to be located within the SW $\frac{1}{4}$ of SW $\frac{1}{4}$, Section 17, T9N, R11E, MDB&M.

2. The applicants have partially completed construction of a reservoir which now has a capacity of approximately 15 acre-feet on the unnamed stream approximately 2,000 feet below the stream's point of origin. They intend to enlarge the dam to its designed capacity of 45 acre-feet. The

unnamed stream continues from the applicants' reservoir approximately one mile to its confluence with North Fork Cosumnes River. The reservoir is used for irrigation of approximately 38 acres of pasture and for the watering of 30 to 75 head of cattle. The applicants intend to place more land under irrigation and to enlarge the herd of cattle. The reservoir is also used for recreation by a children's summer camp and church and social groups.

3. Protestant County of Amador (hereinafter referred to as "County") holds Applications 13037 and 12342 to appropriate 250 cubic feet per second and 65,000 acre-feet, both year-round, from the Cosumnes River at proposed Nashville Reservoir. The site of proposed Nashville Dam that will create the reservoir is approximately 2,000 feet below the confluence of the North and Middle Forks of the Cosumnes River. At the County's request, action by this Board on these applications has been suspended until completion by the U. S. Bureau of Reclamation of its plans for a major project on the Cosumnes River at the same site under its Application 21835 and assigned state filings (Applications 5645B, 5646 and 5677A). Congress has not yet authorized the Bureau's project, a division of the Central Valley Project, and on March 26, 1969, the Bureau obtained an extension of time from this Board to January 1, 1974 to proceed on its assigned state applications. The result is that construction of the County's project has been delayed indefinitely and may never occur.

4. The County's protest is directed only to the applicants' proposed diversion during the months of March, April and November. It did not appear at the hearing to support its contention that unappropriated water does not occur in the unnamed stream during those months.

5. Approximately 60 percent of the runoff that occurs within the Cosumnes River watershed above the Nashville Dam site occurs during the months of February, March and April (U.S.B.R. Feasibility Report on Cosumnes River Division, Central Valley Project; Staff Exh. 8). Diversions by the applicants during the months of March and April should not interfere with the County's project, particularly in view of the fact that the applicants' reservoir has filled during the first storm in each of the two years that it has been in existence (RT 4, 7).

The month of November, also, should be included in the applicants' diversion season to enable the applicants to take advantage of any unusual heavy storms that may occur during that month. The relation between the watershed controlled by any Nashville Dam project (approximately 256,000 acres) to the watershed above the applicants' project (approximately 80 acres) is such that the applicants' project would have little or no effect on the County's proposed project during that month.

6. Unappropriated water is available to supply the applicants, and, subject to suitable conditions, such

water may be diverted and used in the manner proposed without causing substantial injury to any lawful user of water.

7. The intended use is beneficial.

From the foregoing findings, the Board concludes that Application 22863 should be approved and that a permit should be issued to the applicants subject to the limitations and conditions set forth in the order following.

ORDER

IT IS HEREBY ORDERED that Application 22863 be, and it is, approved, and that a permit be issued to the applicants subject to vested rights and to the following limitations and conditions:

1. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed 45 acre-feet per annum by storage to be collected from about November 1 of each year to about May 1 of the succeeding year.

This permit does not authorize collection of water to storage outside the specified season to offset evaporation and seepage losses or for any other purpose.

2. The maximum quantity herein stated may be reduced in the license if investigation warrants.

3. Construction work shall be completed on or before December 1, 1972.

4. Complete application of the water to the proposed use shall be made on or before December 1, 1973.

5. Progress reports shall be filed promptly by permittee on forms which will be provided annually by the State Water Resources Control Board until license is issued.

6. All rights and privileges under this permit, including method of diversion, method of use and quantity of water diverted, are subject to the continuing authority of the State Water Resources Control Board in accordance with law and in the interest of the public welfare to prevent waste, unreasonable use, unreasonable method of use or unreasonable method of diversion of said water.

7. The quantity of water diverted under this permit and under any license issued pursuant thereto is subject to modification by the State Water Resources Control Board if, after notice to the permittee and an opportunity for hearing, the Board finds that such modification is necessary to meet water quality objectives which have been or hereafter may be established or modified pursuant to Division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the Board finds that (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges.

8. Permittee shall allow representatives of the State Water Resources Control Board and other parties, as may be authorized from time to time by said Board, reasonable access to project works to determine compliance with the terms of this permit.

9. Permittee shall, when required by the State Water Resources Control Board, install and maintain an outlet pipe of adequate capacity in his dam as near as practicable to the bottom of the natural stream channel, or provide other means satisfactory to the Board, in order that water entering the reservoir or collected in the reservoir during and after the current storage season may be released into the downstream channel to the extent necessary to satisfy downstream prior rights.

Adopted as the decision and order of the State Water Resources Control Board at a meeting duly called and held at Sacramento, California.

Dated: November 6, 1969

KERRY W. MULLIGAN
Kerry W. Mulligan, Chairman

W. A. ALEXANDER
W. A. Alexander, Vice Chairman

NORMAN B. HUME
Norman B. Hume, Member

E. F. DIBBLE
E. F. Dibble, Member

RONALD B. ROBIE
Ronald B. Robie, Member